

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

BRIAN EBERHARD)
)
)
Plaintiff,)
)
v.) **Case No. 3:15-cv-0156**
)
PHYSICIANS CHOICE LABORATORY) **Chief Judge Sharp**
SERVICES, LLC)
)
Defendant.)
)

ORDER

Pending before the Court is a Report and Recommendation (“R & R”) of the Magistrate Judge (Docket No. 84), recommending that the Court deny Plaintiff Brian Eberhard’s Motion to Attach or Freeze Assets of Defendant or for Other Relief (“the Motion”) (Docket No. 80). Plaintiff has not filed any objections.

In his Motion, Plaintiff seeks a prejudgment attachment and requests this Court to freeze Defendant’s Assets. As the Magistrate Judge points out, Tenn. Code Ann. § 29-6-101 precludes a prejudgment attachment where the only basis for the attachment is that the defendant resides out of state. Plaintiff’s request to freeze Defendant’s assets, made solely for the purpose of securing satisfaction of any judgment he might obtain, was correctly denied. Plaintiff similarly has failed to assert any factual scenarios upon which a constructive trust should be imposed. Finally, Plaintiff has not offered “good cause” for additional discovery past the discovery deadline of May 31, 2016.

The R & R is neither clearly erroneous nor contrary to law. Fed. R. Civ. P. (72)(a).

Accordingly, the R & R (Docket No. 84) is hereby ACCEPTED and APPROVED.

It is SO ORDERED.

Kevin H. Sharp

KEVIN H. SHARP
UNITED STATES DISTRICT JUDGE